

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

06/24/2002

CLERK OF THE COURT  
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza  
Deputy

LC 2001-000696

FILED: \_\_\_\_\_

STATE OF ARIZONA

ROGER KEVIN HAYS

v.

FEMMY BABS KUYINU

ERIC G CROCKER

MESA CITY COURT  
REMAND DESK CR-CCC  
FEMMY BABS KUYINU  
P O BOX 22142  
MESA AZ 85277

MINUTE ENTRY

MESA CITY COURT

Cit. No. 754263; 2001017403

Charge: 1. ASSAULT (DV)  
CRIMINAL DAMAGE

DOB: 11/01/58

DOC: 03/12/01

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

06/24/2002

CLERK OF THE COURT  
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza  
Deputy

LC 2001-000696

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the Mesa City Court, exhibits made of record and the Memoranda submitted by counsel.

Appellant has attached numerous documents to her original memorandum submitted on appeal. This Court notes that the memorandum fails to comply with the requirements for an appellate memoranda set forth in Rule 10(c, Superior Court Rules of Appellate Procedure-Criminal. It appears that Appellant is submitting her case for a retrial. When a record is maintained in a lower court an appeal is on the record, not a trial *de novo* (or new trial).

Appellant appears to be challenging the sufficiency of the evidence to warrant her convictions for Assault, a class 1 misdemeanor in violation of A.R.S. Section 13-1203(A)(1), and Criminal Damage, a class 2 misdemeanor in violation of A.R.S. Section 13-1602(A)(1). When reviewing the sufficiency of the evidence, an appellate court must not reweigh the evidence to determine if it would reach the same conclusion as the original trier of fact.<sup>1</sup> All evidence will be viewed in a light most favorable to sustaining a conviction and all reasonable inferences will be resolved against the Defendant.<sup>2</sup> If conflicts in evidence exists, the appellate court must resolve such conflicts in favor of sustaining the verdict and against the Defendant.<sup>3</sup> An appellate court shall afford great weight to the trial court's assessment of witnesses' credibility and should

---

<sup>1</sup> *State v. Guerra*, 161 Ariz. 289, 778 P.2d 1185 (1989); *State v. Mincey*, 141 Ariz. 425, 687 P.2d 1180, cert.denied, 469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); *State v. Brown*, 125 Ariz. 160, 608 P.2d 299 (1980); *Hollis v. Industrial Commission*, 94 Ariz. 113, 382 P.2d 226 (1963).

<sup>2</sup> *State v. Guerra*, supra; *State v. Tison*, 129 Ariz. 546, 633 P.2d 355 (1981), cert.denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d 147 (1982).

<sup>3</sup> *State v. Guerra*, supra; *State v. Girdler*, 138 Ariz. 482, 675 P.2d 1301 (1983), cert.denied, 467 U.S. 1244, 104 S.Ct. 3519, 82 L.Ed.2d 826 (1984),

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

06/24/2002

CLERK OF THE COURT  
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza  
Deputy

LC 2001-000696

not reverse the trial court's weighing of evidence absent clear error.<sup>4</sup> When the sufficiency of evidence to support a judgment is questioned on appeal, an appellate court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.<sup>5</sup> The Arizona Supreme Court has explained in State v. Tison<sup>6</sup> that "substantial evidence" means:

More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.<sup>7</sup>

This Court finds that the trial court's determination was not clearly erroneous and was supported by substantial evidence.

IT IS ORDERED affirming the judgments of guilt and sentences imposed.

IT IS FURTHER ORDERED remanding this matter back to the Mesa City Court for all further and future proceedings.

---

<sup>4</sup> In re: Estate of Shumway, 197 Ariz. 57, 3P.3d 977, review granted in part, opinion vacated in part 9 P.3d 1062; Ryder v. Leach, 3 Ariz. 129, 77P. 490 (1889).

<sup>5</sup> Hutcherson v. City of Phoenix, 192 Ariz. 51, 961 P.2d 449 (1998); State v. Guerra, supra; State ex rel. Herman v. Schaffer, 110 Ariz. 91, 515 P.2d 593 (1973).

<sup>6</sup> Supra.

<sup>7</sup> Id. At 553, 633 P.2d at 362.